

Supreme Court of Kentucky

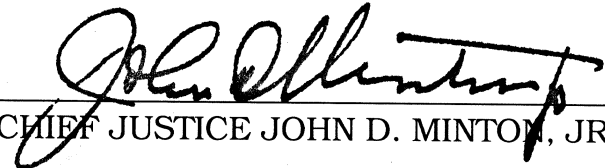
ORDER

**IN RE: ORDER APPROVING THE LOCAL RULES OF PRACTICE AND
PROCEDURE FOR THE 1ST JUDICIAL DISTRICT COURTS,
FULTON AND HICKMAN COUNTIES**

Upon recommendation of the Chief District Judge of the 1st Judicial District, and being otherwise sufficiently advised,

The Local Rules of Practice and Procedure for the 1st Judicial District, Fulton and Hickman counties, are hereby approved. This order shall be effective as of the date of this Order, and shall remain in effect until further orders of this Court.

Entered this the 30th day of March 2012.


CHIEF JUSTICE JOHN D. MINTON, JR.

1st JUDICIAL DISTRICT
FULTON AND HICKMAN COUNTY
RULES OF PRACTICE AND PROCEDURE
COMMONWEALTH OF KENTUCKY

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RULE 1 INTRODUCTION / ADMINISTRATIVE PROCEDURE

101 Preface

These are the Local Rules of the Fulton and Hickman District Court. These Rules supplement the Kentucky Family Court Rules of Procedure and Practice (FCRPP), the Kentucky Rules of Criminal Procedure (RCr) and the Kentucky Rules of Civil Procedure (CR). These rules shall be the only operative Fulton/Hickman District Court Rules.

These rules shall be constructed to secure a just and speedy determination of all matters. The Court may suspend any of these rules whenever justice requires it.

102 Effective Date

The effective date of these rules shall be thirty (30) days after the Kentucky Supreme Court's approval.

103 Citation

These Rules shall be cited as Fulton and Hickman District Court Practice and Procedure (FHDPR).

104 Holidays

The District Court will follow the Kentucky Court of Justice holiday schedule and may be obtained at the Fulton or Hickman Court Clerk's Office or at <http://courts.ky.gov>.

105 Attire

Attorneys and Court Officials: All attorneys and Court Officials shall dress in professional attire.

General Public: All persons shall remove hats, overcoats, or raincoats before entering the courtroom. There shall be no shorts, tank tops, head coverings or shirts with obscene or inappropriate messages worn by any party, witness or juror in the Fulton/Hickman District Court.

106 Opening and Closing of Court

The Court shall be formally opened each day upon which Court business is transacted.

Opening Each Session: The bailiff shall require all present and able to stand and shall say, "The District Court for Fulton (or Hickman) County is now in session, the Honorable _____, District Judge, presiding. All persons having business with the Court draw near, give attention, and you shall be heard."

Closing Each Session: The Judge may direct the bailiff to adjourn Court. Bailiff shall require all present to arise and shall say, "This Court is now adjourned until ____."

107 Rules of Conduct

During trial, voir dire, or opening statements, attorneys shall not exhibit familiarity with witnesses, jurors, or opposing counsel, and the use of first names should be avoided.

Attorneys may not lean upon the bench nor appear to engage the Court in conversation in an inappropriate manner.

The trial attorney shall refrain from interrupting the Court or opposing counsel until the statement being made is fully completed, except when absolutely necessary to protect his client's right on the record, and should respectfully await the completion of the Court's statement or opinion before undertaking to raise objectionable matters. When an objection is made to a question asked by him, the attorney should refrain from asking the witness another question until the Court has had an opportunity to rule upon the objections. The objecting attorney shall state the legal grounds without argument or discussion except by leave of the Court.

The bailiff shall refrain from interrupting the Court, counsel, or witnesses unless directed to by the Court.

The bailiff shall assist the Court, clerks, parties and counsel by handling all exhibits, pleadings and papers which the parties or their attorneys may wish to present to the Court.

Unless otherwise directed by the Court, there shall be at least one bailiff in attendance of Court at all times. Surplus officers, deputies and other law enforcement officers shall stay away from the counsel tables, clerks, etc. and shall be seated in the general audience or jury box. Presentation of notes or papers to the clerk or the Court should be done at the recess or, if required while Court is in session, through the bailiff.

The bailiff will prohibit direct contact between prisoners and the general audience while Court is in session.

The bailiff may confiscate any and all cell phones or other electronic devices activated while Court is in session.

RULE 2 COURT SCHEDULING/MOTION HOUR/ PROCEDURES FOR FILING/JUDGMENTS AND ORDERS

201 Time

Court will open at the scheduled time each day Court is in session, and the Judge and Attorneys shall be timely in all sessions.

202 Regular Motion Hour Schedule

Fulton County

- A. Criminal arraignments shall be heard each Tuesday at 9:30 AM.
- B. Criminal motion hour and pretrial conferences shall be heard each Tuesday at 10:30 AM.
- C. Preliminary hearings shall be heard on Tuesdays at 1:30 PM as scheduled by the Court.
- D. Domestic Violence matters shall be heard each Tuesday at 1:30 PM.
- E. Arraignments for Status Offense and Public Offense matters shall be heard on the 1st Thursday of each month at 10:30 AM.
- F. All other matters pertaining to Status Offense and Public Offenses shall be heard on the 1st Thursday of each month at 1:15 PM
- G. Show cause and contempt hearings in Juvenile Cases for all fine collection matters shall be heard on the 2nd Thursday of each month at 10:00 AM.
- H. Juvenile Dependency Neglect and Abuse shall be heard on the 2nd Thursday of each month at 1:15 PM.
- I. Paternity and Child Support matters shall be heard on the 3rd Thursday of each month at 9:30 AM and 1:15 PM.
- J. Small Claims matters shall be heard the 1st and 3rd Thursdays at 9:30 AM.
- K. Probate matters shall be heard the 1st and 3rd Thursdays at 9:30 AM.
- L. Civil motions and Evictions shall be heard the 1st and 3rd Thursdays at 9:30 AM.
- M. Show cause and contempt hearings for all fine collection matters shall be heard on the 2nd Thursday of each month at 9:00 AM.

All Criminal Motions shall be filed with the Fulton Circuit Court Clerk's office no later than 4 PM on the Thursday before the next Criminal Motion Hour.

All Probate Motions shall be filed with the Fulton Circuit Court Clerk's office no later than 4 PM on the Monday before the next Probate Motion Hour.

All Civil Motions shall be filed with the Fulton Circuit Court Clerk's office no later than 4 PM on the Monday before the next Civil Motion Hour

Temporary Removal Hearings as a result of the issuance of an Emergency Custody Order shall be heard within 72 hours of issuances of the emergency order, exclusive of holidays and weekends.

Hickman County

- A. Criminal arraignments shall be heard each Monday at 9:00 AM.
- B. Criminal motion hour and pretrial conferences shall be heard each Monday at 9:00 AM. All said motions shall be filed with the Hickman Circuit Court Clerk's office no later than 4 PM on the Wednesday before the next said motion hour. Preliminary hearings shall be heard on Mondays at 10:30 AM as scheduled by the Court.
- C. Juvenile Dependency Neglect and Abuse shall be heard on Mondays at 10:30 AM. Status Offense and Public Offense matters shall be heard on Mondays at 10:30 AM. Temporary Removal Hearings as a result of the issuance of an Emergency Custody Order shall be heard within 72 hours of issuances of the emergency order, exclusive of holidays and weekends.
- D. Paternity and Child Support matters shall be heard on Mondays at 10:00 AM.
- E. Domestic Violence matters shall be heard on Mondays at 9:00 AM.
- F. Small Claims matters shall be heard on Mondays at 9:00 AM.
- G. Probate matters shall be heard on Mondays at 9:00 AM. All probate motions shall be filed with the Hickman Circuit Court Clerk's office no later than 4 PM on the Wednesday before the next Probate Motion Hour.
- H. Civil motions and Evictions shall be heard on Mondays at 9:00 AM. All said civil motions shall be filed with the Hickman Circuit Court Clerk's office no later than 4 PM on the Wednesday before said Motion Hour.
- I. Show cause and contempt hearings for all fine collection matters shall be heard on the 4th Thursday of each month at 9:00 AM.

203 Exceptions to Regular Motion Hour Schedule

Exceptions to the regular motion hour schedule shall be at the discretion of the District Judge.

204 Deadline for Filing Motions

Deadlines for filing motions are indicated in FHDPR 202 above.

205 Orders and Judgments

Costs: All final judgments shall provide for the taxation of costs.

Default Judgment Certificate: All motions for default judgment and claims involving liquidated amounts shall be accompanied by a certificate, which certificate shall comport with CR 11. See sample certificates attached as Appendix A.

206 Written Finding and Conclusions of Law

Requests for written findings of fact and conclusions of law shall be accompanied by proposed findings of fact and conclusion of law submitted in writing to the Court prior to entry of judgment.

RULE 3 DOMESTIC VIOLENCE PROTOCOL AND 24 HOUR ACCESS POLICY

301 Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol

The Twenty-four (24) Hour Accessibility to Emergency Protective Orders and Local Joint Jurisdiction Domestic Violence Protocol for the First Judicial Circuit and the First and Fifty-Ninth Judicial Districts, as approved by the Kentucky Supreme Court, is attached as Appendix B to these local rules and incorporated as if set out fully herein.

RULE 4 PATERNITY

There are currently no local rules relating to Paternity in the Fulton/Hickman District Court. Refer to FCRPP 14 and 15 for the uniform statewide rules.

RULE 5 DEPENDENCY, NEGLECT AND ABUSE

501 Procedure for Emergency Custody Orders

To obtain an Emergency Custody Order as set forth in FCRPP 19:

- A. During normal working hours, 8:00 a.m. to 4:00 pm. Monday through Friday, excluding holidays, persons seeking an Emergency Custody Order (ECO), shall come to the Circuit Court Clerk's Office.
- B. After working hours and on weekends and holidays, a social worker or any law enforcement officer so requested by an interested party shall contact the District Court judge or trial commissioner.

502 Petition

Any petition filed with this Court shall comply with the following conditions:

- A. Citations to specific statute and factual allegations relied upon in asserting the Court's jurisdiction; and

- B. Full information concerning the child's parents and their address(es). The petitioner shall make diligent efforts to locate the child's parents, including but not limited to initiating contact with the Child Support Division of the appropriate County Attorney's Office.

503 The Effects of Service on Only One Parent/Persons Exercising Custodial Control or Supervision

The judge may permit the Temporary Removal Hearing or the adjudicatory hearing to go forward when the non-custodial parent has not been served in accordance with FCRPP 18(1) if it is established on the record that petitioner has made diligent efforts to serve all other parties including initiating contact with the Child Support Division of the County Attorney's Office in an attempt to locate any absent parent. The petitioner shall make continuing diligent efforts after the hearing to locate and notify all persons who were not served.

RULE 6 STATUS OFFENSES

There are currently no local rules relating to Status Offense cases in the Fulton/Hickman District Court. Refer to FCRPP 37 through 44 for uniform statewide rules.

RULE 7 MISCELLANEOUS

701 Identification of Counsel or Party Required

Every pleading, motion and any other paper filed in the record by counsel or party shall contain the case number, typed or printed name, address, telephone number and e-mail address of the attorney or party signing the paper. A rubber stamp shall not be deemed a signature either under this Rule or CR 11.

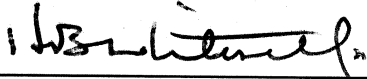
702 Protection of Personal Identifiers

- A. In addition, all pleadings must comply with the requirements of KRS Chapters 205, 403, 405, 406 and 407 by providing the personal identifying information required in those chapters. However, except as set forth in paragraph B below, where personal identifiers are required by statute or contained in other documents or exhibits filed with the court pursuant to the above-stated chapters, parties shall comply with CR 7.03(1)(b) by filing one copy from which any personal data has been redacted and filing an unredacted copy in a marked and sealed envelope. The clerk of the court shall allow the unredacted sealed copy of the pleading, document, or exhibit containing personal identifiers to be accessed only by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Health and Family Services involved in child support matters attendant to the case, or a person authorized to view the copy by specific orders of the court.

As used in this section, "personal identifier" means a Social Security number or tax-payer identification number, date of birth, or financial account number.

- B. Pleadings, documents, or exhibits filed in actions deemed confidential by statute need not be redacted, and any access to those files shall be governed by KRS 199.570, KRS 610.340, KRS 625.045 and KRS 625.108.

The FHDPR is hereby adopted by the Fulton/Hickman District Court Judge this the 20 day of March, 2012 :



Hon. Hunter B. Whitesell, II, First Judicial District

Appendix A: Sample Default Judgment Certificates

No. _____ Fulton District Court
Division
Plaintiff
VS. _____ DEFULT JUDGMENT CERTIFICATE
Defendant

* * * * *

Plaintiff, by counsel, certifies that:

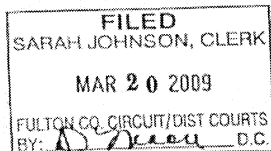
I. No papers have been served on plaintiff's counsel by the defendant in default.

II. Defendant, _____, was served on October 15, 2008.

III. The balance due on the loan is as follows:

- (A) The amount of the original obligation is: \$ open
- (B) The amount paid by Defendant to be deducted from the original obligation: open
- (C) If the obligation contains pre-computed interest, and other pre-computed charges, the amount to be deducted pursuant to statute is: none
- (D) The balance due from Defendant is: 912.55
- (E) If the balance due on line D above is different from the amount sought in the Default Judgment, the reason is: N/A

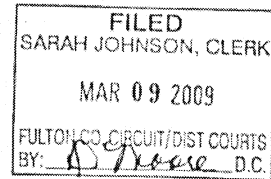
IV. The plaintiff's counsel is attempting to collect a debt and any information the plaintiff's counsel obtains will be used for that purpose and this communication is from a debt collector.



By: _____
Counsel For Plaintiff

CAP
ZAA/08-22384-0

COMMONWEALTH OF KENTUCKY
1ST JUDICIAL DISTRICT
FULTON DISTRICT COURT
File No.



Plaintiff,

vs.

Judge: Hunter B. Whitesell II
Division:

Defendant(s).

DEFAULT JUDGMENT CERTIFICATE

Plaintiff, by counsel, certifies that:

1. No papers have been served on Plaintiff's counsel by the Defendant(s) who is/are therefore in default.
2. Defendant(s) was/were personally served on 01/22/2009.
3. The Balance due is as follows:

a. Total amount of original obligation	\$1939.19
b. Amount paid by defendant to be deducted from the obligation	\$0.00
c. Amount of any interest requested	\$86.28 as of 3/2/09
d. Amount of any Attorneys Fees and/or Collection Costs requested	\$0.00
e. Amount of Court costs due	\$93.46
f. Balance due is	\$2118.93
4. If the balance due above is different from the amount sought in the default judgment, the reason is:
5. If the basis of the claim is a promissory note, the original has been filed. If not the reason is:

BY: _____

ATTORNEY FOR PLAINTIFF

PROOF OF SERVICE

The undersigned certifies that a complete copy of this instrument was mailed by regular mail to:
Defendant, _____

Addressed to said parties at their mailing addresses, on March 2, 2009

**THIS IS A COMMUNICATION FROM A DEBT COLLECTOR
IN AN ATTEMPT TO COLLECT A DEBT. ANY INFORMATION OBTAINED
WILL BE USED FOR THAT PURPOSE.**

F&B Acct. No: 87883

APPENDIX B

TWENTY-FOUR HOUR ACCESSIBILITY TO EMERGENCY PROTECTIVE ORDERS AND LOCAL JOINT JURISDICTION DOMESTIC VIOLENCE PROTOCOL FIRST JUDICIAL CIRCUIT AND FIRST AND FIFTY-NINTH JUDICIAL DISTRICTS BALLARD, CARLISLE, FULTON AND HICKMAN COUNTIES

Pursuant to KRS 403.735, and in compliance with Family Court Rules of Procedure and Practice (FCRPP) Section IV, this local domestic violence protocol is established to ensure twenty-four hour accessibility to emergency protective orders and to establish written procedures for domestic violence matters in which there may be joint jurisdiction between the circuit/family and district courts.

I. Uniform Protocol for Processing Cases

- A. Circuit court clerks shall process domestic violence cases in accordance with the procedures set forth in the "Domestic Violence Proceedings" section of the Kentucky Circuit Court Clerk's Manual.
- B. All cases will be assigned a "D" case number with the appropriate trailer number within the court case management system and may not be consolidated with any other case type.
- C. Domestic violence matters may be reassigned from the district court division to circuit/family court when there is a dissolution/custody proceeding pending.
- D. No jurisdiction shall adopt a blanket "no-drop" policy. Domestic violence cases are civil matters within the purview of CR 41.01.
- E. Domestic violence cases shall be reassigned or transferred to another circuit under the following circumstances:

When a dissolution of marriage action is pending or has been filed in another Circuit.

Consistent with FCRPP 12, when the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution or custody matter, an emergency protective order shall continue and the summons shall be reissued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed fourteen days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

II. Twenty-four Hour Accessibility

- A. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **during** regular business hours:

1st Circuit Commonwealth Attorney Michael Stacey,
Ballard County Attorney Vickie Hayden,
Carlisle County Attorney Michael Hogancamp,
Fulton County Attorney Rick Major,
Hickman County Attorney Sue Ellen Morris,
Ballard County Circuit Court Clerk, Holly Dunker
Carlisle County Circuit Court Clerk, Kevin Hoskins
Fulton County Circuit Court Clerk, Sarah Johnson
Hickman County Circuit Court Clerk, Cathy Kellett

All assistant Commonwealth and County Attorneys in the Circuit,
All Deputy Circuit Clerks

- B. The following agencies and officers are authorized to take domestic violence petitions and administer oaths to petitioner **after** regular business hours and weekends and holidays:

1st Circuit Commonwealth Attorney Michael Stacey,
Ballard County Attorney Vickie Hayden,
Carlisle County Attorney Michael Hogancamp,
Fulton County Attorney Rick Major,
Hickman County Attorney Sue Ellen Morris,

All assistant Commonwealth and County Attorneys in the Circuit, and their assistants shown in A above and the Ballard, Carlisle, Fulton and Hickman County Jailers and all their sworn deputies, the Chiefs of police for the Cities of Bardwell, Barlow, Clinton, Fulton, Hickman, LaCenter and Wickliffe, and all sworn officers within those departments and any Kentucky State Police officer assigned to Ballard, Carlisle, Fulton and/or Hickman Counties.

- C. Upon receipt of a petition **during** regular business hours, the authorized agency/officer shall present the petition to the following:

1st District Judge Hunter Whitesell II, for Fulton and Hickman Counties
59th District Judge Keith Myers for Ballard and Carlisle Counties
1st Circuit Judge Timothy A. Langford

- D. Upon receipt of a petition **after** regular business hours, the authorized agency/officer shall present the petition to:

The District Judge in the County of issuance of the petition.
The 1st Circuit Judge.
The Trial Commissioner for Carlisle County.
If none of the above may be found then to any District or Circuit Judge in the Commonwealth of Kentucky.

- E. Petitions will be reviewed within an hour of presentation to a judge or trial commissioner unless it is impossible due to the unavailability of a judge or trial commissioner.

- F. The schedule for domestic violence hearings is as follows:

Ballard District Court: Tuesdays at 9:00 am

Carlisle District Court: Wednesdays at 11:00 am
Fulton District Court: Tuesdays at 1:30pm
Hickman District Court: Mondays at 9:00 am
1st Circuit Motion Hour:
Ballard County, 1st and 3rd Fridays at 9:30 am
Carlisle County, 1st and 3rd Thursdays at 1:30 pm
Fulton County, 2nd and 4th Thursdays at 9:30 am
Hickman County, 1st and 3rd Thursdays at 9:30 am

III. Contempt Proceedings

A. Pursuant to KRS 403.760, civil and criminal proceedings for violation of a protective order for the same violation of a protective order shall be mutually exclusive.

B. Petitioners seeking to initiate contempt proceedings should contact:


The County Attorney and or the Circuit Clerk of the County in which the matter is pending to request that contempt proceedings be placed on the Court's next available docket.

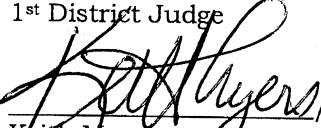
Civil Contempt proceedings shall be heard by the Court that entered the initial Domestic Violence order (either Circuit or District) and shall be scheduled if possible, at the same time as original EPO hearings, as noted hereinabove, the movant shall serve and notify the non-movant as required by the Rules of Civil Procedure, namely CR 5 and rules of local practice for obtaining a contempt order shall be followed.

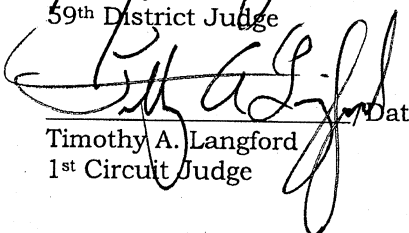
C. No petitioner may be held in contempt for failing to appear at a domestic violence hearing or to prosecute a criminal violation of a protective order.

All general orders, forms, policies and procedures approved by the Supreme Court and published by A.O.C. relating to domestic violence are incorporated by reference.

The above protocol is adopted by all judges in the circuit/district:

/Date 3-20-12
Hunter Whitesell II
1st District Judge

/Date 3-19-12
Keith Myers
59th District Judge

/Date 3-19-12
Timothy A. Langford
1st Circuit Judge